Corp. Six Net, 1975

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of Petition

of

INDEPENDENT TELEVISION CORPORATION

for redetermination of deficiencies of franchise tax under Article 9-A of the tax law for the periods ended 4/30/69, 2/28/70, 2/28/71; reduction of tax for period ended 2/29/72; deficiency of license fee under Article 9 based on the period ended 2/29/72.

The taxpayer having filed a petition as indicated above, and a hearing having been held at the office of the State Tax Commission, 2 World Trade Center, New York City, at which hearing P. Weiner, certified public accountant, and L. Kornblum, vice-president, appeared and the record having been duly examined and considered by the State Tax Commission,

It is hereby found:

- Independent Television Corporation ("Independent"), a producer and distributor of motion picture films, was incorporated in Delaware in 1958 and began doing business in New York during the same year.
- Based on a field audit conducted by its New York City district office, the Corporation Tax Bureau issued statements of audit adjustment and notices of deficiency, and statement of tax reduction, as follows:

Period Ended	Tax Deficiency
4/30/69	\$ 6,790.56
2/28/70	3,630.16
2/28/71	747.01
2/29/72	(157.11)
2/29/72 (License Fee)	16.64

The sole item in dispute is the disallowance of the write-off, in the period ended 4/30/69, of outstanding advances in the amount of \$600,385.71 owed to Independent by its subsidiary, Metropolis Productions, Inc. ("Metropolis").

- (3) Metropolis was formed by Television Programs of America, Inc. ("Television") on February 7, 1958, with \$1,000.00 of capital stock. As of 8/31/58, the balance sheet of Metropolis indicated advances payable of \$585,546.00 to Television. In September 1958 the taxpayer purchased the entire capital stock of Metropolis, paying \$1,000.00 for the stock and reimbursing Television for the amount of outstanding advances. Independent subsequently made additional advances to Metropolis, which was engaged in the production of feature films. Independent distributed the films produced by Metropolis. Independent determined, during the period ended August 31, 1969, that outstanding advances of \$600,385.71 were uncollectible and wrote off that amount.
 - (4) Section 208 of the tax law reads in part:
 - "4. The term 'subsidiary capital' means investments in the stock of subsidiaries and any
 indebtedness from subsidiaries, exclusive of
 accounts receivable acquired in the ordinary
 course of trade or business for services
 rendered or for sales of property held primarily for sale to customers . . .
 - "9. (a) Entire net income shall not include:
 - (1) income, gains and losses from subsidiary capital . . . "

The State Tax Commission hereby DECIDES:

(A) Uncollectible advances from Metropolis of \$600,385.71 were subsidiary capital inasmuch as they arose from the advancement of funds and not from sales or services in the ordinary course of trade or business. Therefore, in accordance with Section 208.9(a) (1) of the tax law, such losses deducted in computing federal taxable income must be disallowed in computing entire net income.

(B) The respective tax deficiencies, and tax reduction for period ended 2/29/72, as set forth in (2) are affirmed, together with interest in accordance with Section 1084 of the tax law.

Dated: Albany, New York
this 14th Day of August 1975.

STATE TAX COMMISSION

President

Commissioner

Commissioner